



March 24, 2006

Laura H. Parsky
Deputy Assistant Attorney General
Office of the Assistant Attorney General
Criminal Division B Room 2113
United States Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Stewart A. Baker
Assistant Secretary for Policy
United States Department of Homeland Security
3801 Nebraska Avenue, N.W.
Washington, D.C. 20528

Elaine N. Lammert
Deputy General Counsel
Federal Bureau of Investigation
935 Pennsylvania Avenue, N.W.
Washington, D.C. 20532

Subject: International Section 214 Application of Birch Telecom, Inc.

Dear Ms. Parsky, Mr. Baker, and Ms. Lammert:

This letter outlines the commitments made by Birch Telecom, Inc., Debtor-in-Possession, trading as Birch Telecom, Inc., ("Birch") to the U.S. Department of Justice ("DOJ"), including the Federal Bureau of Investigation ("FBI"), and to the U.S. Department of Homeland Security ("DHS"), in order to further assist those agencies with national security, law enforcement and public safety matters within their areas of interest which may be affected by Birch's application to the Federal Communications Commission ("FCC") for transfer of control authority pursuant to Section 214 of the Communications Act of 1934, as amended.

On February 17, 2006, Birch filed an application seeking authority to assign Birch's facilities-based and resale services under a Third Amended Joint Reorganization Plan (the "Reorganization Plan") to a newly reorganized Birch Telecom, Inc. Upon bankruptcy court approval of the Reorganization Plan, Birch will emerge from bankruptcy court protection with a new capital structure. Birch will provide the same telecommunications services previously provided (File No. ITC-214-19990701-00441), namely local, domestic and international long distance voice, voice mail, calling cards, Internet access and related services, web hosting, virtual private network service, and phone system equipment to business and residential customers pursuant to Birch's owned facilities, as well as resale agreements with various carriers such as AT&T, Qwest, MCI/Verizon, and BellSouth. After implementation of the Reorganization Plan, Birch's facilities will consist of four Birch-owned Lucent 5E switches, approximately 12 data switches, and various minor data routers. Birch's commitments herein are necessarily contingent upon FCC and bankruptcy court approval, prior to which it has no authority to make commitments or otherwise act in the name of Birch.

Birch agrees that, for all customer billing records, subscriber information, and any other related information used, processed, or maintained in the ordinary course of business relating to communications services offered to U.S. persons, but not including subscriber listing information that Birch makes available for publication in public telephone books and public directory assistance in the normal course of business ("U.S. records"), Birch shall store such U.S. records exclusively in the United States. For these purposes, U.S. records shall include information subject to disclosure to a U.S. federal or state governmental entity under the procedures specified in Sections 2703(c) and (d) and Section 2709 of Title 18 of the United States Code. Birch agrees to ensure that U.S. records are not made subject to mandatory destruction under any foreign laws. Birch agrees to take all practicable measures to prevent unauthorized access to, or disclosure of the content of, communications or U.S. records, in violation of any U.S. federal, state or local laws or of the commitments set forth in this letter.

Birch agrees that it shall not, directly or indirectly, disclose or permit disclosure of or access to U.S. records, or to any information (including the content of communications) pertaining to an order to intercept communications, an order for a pen register or a trap and trace device, a subpoena or other lawful demand by a U.S. law enforcement agency for U.S. records, except as requested pursuant to lawful U.S. processes. No such disclosure will be made to any person if the purpose of such disclosure or access is to respond to the legal process or request on behalf of a non-U.S. government without first satisfying all pertinent requirements of U.S. law and obtaining the express written consent of the DOJ and DHS or the authorization

of a court of competent jurisdiction in the United States. The term "non-U.S. government" means any government, including an identified representative, agent, component or subdivision thereof, that is not a local, state or federal government in the United States. Any such requests or legal process submitted by a non-U.S. government to Birch shall be referred to the DOJ and DHS as soon as possible, and in no event later than five (5) business days after such request or legal process is received by or known to Birch, unless the disclosure of the request or legal process would be in violation of U.S. law or an order of a court in the U.S.

Birch has designated a point of contact within the United States with the authority and responsibility for accepting and overseeing compliance with a wiretap order, pen/trap order, subpoena or other lawful demand by U.S. law enforcement authorities for the content of communications or U.S. records. Birch will notify the FBI, DOJ and DHS promptly, in writing of any change in such designation. Any and all future points of contact shall be resident U.S. citizens, and Birch shall cooperate with any request by a U.S. government authority that a background check or security clearance process be completed for a designated point of contact.

Birch agrees that it will notify the FBI, DOJ and DHS promptly if there are material changes in any of the facts as represented in this letter or in the event that Birch acquires, directly or indirectly, by ownership in fee, indefeasible right of use, or lease, any significant new facility, including, without limitation, a switch, an international communications transmission facility, or other major transmission facility. All notices to be provided to the FBI, DOJ or DHS shall be directed to the offices addressed in this letter.

Birch agrees that, in the event the commitments set forth in this letter are breached, in addition to any other remedy available at law or equity, the DOJ, FBI or DHS may request that the FCC modify, condition, revoke, cancel, or render null and void any relevant license, permit, or other authorization granted by the FCC to Birch or any successor-in-interest to Birch. Nothing herein shall be construed to be a waiver by Birch of, or limitation on, its right to oppose or comment on any such request.

Nothing in this letter is intended to excuse Birch from its obligations to comply promptly with U.S. legal requirements for the retention, preservation, or production of information, records or data, or from the applicable requirements of the Communications Assistance for Law Enforcement Act, 47 U.S.C. 1001, et seq.; nor shall this letter constitute a waiver of: (a) any obligation imposed by any U.S. Federal, state or local laws on Birch, (b) any enforcement authority available under any U.S. or state laws, (c) the sovereign immunity of the United States, or (d) any authority the United States Government may possess (including without limitation

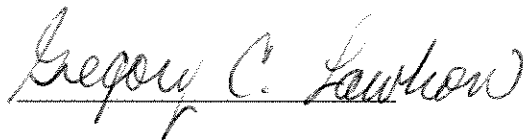
authority pursuant to the International Emergency Economic Powers Act) over the activities of Birch. Nothing in this letter is intended to or is to be interpreted to require the parties to violate any applicable U.S. law. Likewise, nothing in this letter limits the right of the United States Government to pursue criminal sanctions or charges against Birch, and nothing in this letter provides Birch with any relief from civil liability.

We understand that, upon execution of this letter by an authorized representative or attorney for Birch, the DOJ, FBI and DHS shall notify the FCC that the DOJ, FBI and DHS have no objection to the FCC's grant of Birch's application filed with the FCC.

Sincerely,

Birch Telecom, Inc.,
Debtor-in-Possession, trading as Birch
Telecom, Inc.

Date: March 24, 2006

By: 

Printed Name: Gregory C. Lawhon
Title: Chief Executive Officer